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NEW EXPORT REQUIREMENTS FOR ELECTRONICS THE ELECTRONIC WASTE RECYCLING ACT OF 2003 (SB 20 – SHER)



*DTSC is one of six
Boards and
Departments within
the California
Environmental
Protection Agency.
The Department's
mission is to restore,
protect and enhance
the environment,
to ensure public health,
environmental
quality and
economic vitality,
by regulating
hazardous waste,
conducting and
overseeing
cleanups, and
developing
and promoting
pollution prevention.*

State of California



California
Environmental
Protection Agency



I. BACKGROUND

Effective January 1, 2004, the Electronic Waste Recycling Act of 2003 [Senate Bill (SB) 20, Sher] requires anyone who intends to export covered electronic waste to notify the Department of Toxic Substances Control (DTSC) and to demonstrate that the covered electronic wastes will be properly handled. Covered electronic wastes include discarded cathode ray tubes (CRTs), CRT devices (e.g., televisions and computer monitors) and other similar electronic wastes that DTSC designates as hazardous waste in the future. Presently, DTSC is testing liquid crystal display (LCD) desktop monitors and laptop computers to determine if they are hazardous wastes. This testing will be completed in the spring of 2004. Until then, the SB 20 export requirements apply to only CRTs and CRT devices.

Information contained in this fact sheet provides guidance for compliance with SB 20 export requirements to persons who intend to export. DTSC may adopt regulations implementing the export provisions of SB 20 as needed.

II. THE EXPORT REQUIREMENTS [Public Resources Code (PRC) section 42476.5]

- The following notification and demonstrations are required to be submitted to DTSC at least 60 days prior to the export of covered electronic waste:

Notification

- PRC section 42476.5 (a) requires that a person who intends to export:
“Notify the department of the destination, contents, and volume of covered electronic waste to be exported.”

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Demonstrations

- PRC section 42476.5(b) requires that a person who intends to export:
“Demonstrate that the importation of covered electronic waste is not prohibited by any applicable law or regulation of the country of destination and that any import is conducted in accordance with all applicable laws. As part of this demonstration, required import and operating licenses shall be forwarded to the department.”
- PRC section 42476.5(c) requires that a person who intends to export:
“Demonstrate that the exportation of covered electronic waste is conducted only in accordance with applicable international law.”
- PRC section 42476.5 (d) requires that a person who intends to export:
“Demonstrate that the management of the exported covered electronic waste will be handled within the country of destination in accordance with applicable rules, standards, and requirements adopted by the Organization for Economic Co-operation and Development for the environmentally sound management of electronic waste.”
- PRC section 42476.5 (e) requires that a person who intends to export:
“Demonstrate that the covered electronic waste is being exported for the purpose of reuse or recycling.”

III. COMPLIANCE OPTIONS

The following are examples of some options for complying with the export notification and demonstrations required by SB 20.

These examples do not preclude submittal of other forms of notification or demonstration that, upon review, DTSC finds to be acceptable. Please note that the notification required by PRC section 42476.5(a) and the demonstrations required by PRC sections 42476.5(b)-(e) must be submitted to DTSC at least 60 days prior to export.

A. Notification [PRC section 42476.5(a)]. This notification provides specific information on the type and volume of exported covered electronic waste, and the destination of the exported covered wastes. The notification may cover export activities extending over a twelve (12) month or lesser period. A person who intends to export may consider the following types of notifications:

1. A person who intends to export covered electronic wastes may submit a letter of notification to the address provided at the end of this Fact Sheet, at least sixty days prior to shipment. [Note: This option does not waive other applicable export notification requirements (e.g., California Code of Regulations, title 22, section 66273.90).] The letter of notification shall include:
 - a. Name and address of the receiving facility.
 - b. Description of the covered electronic wastes.
 - c. Quantity of the covered electronic wastes in pounds,

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- tons, kilograms, number of units, etc.
 - d. Name and address of the Exporter of Record
 - e. The name/location of the point of exit from U.S.
 - f. The name/location of the point of entry into the destination country.
 - g. Generator Identification number, if applicable.
2. A person who intends to export covered electronic wastes consisting of CRT or CRT devices that meet criteria for management as universal waste, may submit a notice equivalent to the universal waste export notice required by California Code of Regulations, title 22, section 66273.90. However, such notice shall be submitted at least sixty days prior to shipment.
 3. A person who intends to export covered electronic wastes that are consumer electronic devices and meet the criteria for management as universal waste, may submit a notice equivalent to the universal waste export notice required by California Code of Regulations, title 22, section 66273.20(d), or 66273.40(d), as appropriate. However, such notice shall be submitted at least sixty days prior to shipment.
 4. A person who intends to export covered electronic wastes may submit a completed copy of an U.S. EPA Acknowledgement of Consent as specified in California Code of Regulations, title 22, section 66262.53 and a copy of the manifest as specified in California Code of Regulations, title 22, section 66262.54. However, such notice shall be submitted at least sixty days prior to shipment.
- B. Demonstration [PRC section 42476.5(b)]. A person who intends to export covered electronic waste must demonstrate that the covered electronic waste can legally be imported into the destination country and that the covered electronic waste is imported in accordance with applicable law. Submission of a copy of each import license and operating license required for the importation of the covered electronic waste will satisfy this requirement. If import and operating licenses are not required, compliance options include:
1. A person who intends to export covered electronic wastes may submit a "Notice of Consent" or similar document from the authority that approved the import.
 2. A person who intends to export covered electronic wastes may submit a certified statement signed by the person who intends to export covered electronic wastes that describes the controls that will be in place to ensure that the applicable legal requirements are met.
- C. Demonstration [PRC section 42476.5(c)]. A person who intends to export covered electronic wastes must demonstrate that the export of its covered electronic waste is in

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compliance with applicable international law. Examples of international agreements related to exports include but are not limited to: the International Carriage of Dangerous Goods by Road (ADR, 1957), the International Maritime Dangerous Goods Code (IMDG, 1985), the Convention on International Civil Aviation (Chicago Convention, 1944), the International Convention for the Prevention of Pollution from Ships (MARPOL, 1973/1978), the International Convention for the Safety of Life at Sea (SOLAS, 1974), and the Convention Concerning International Carriage by Rail (COTIF, 1985). Compliance options include:

1. A person who intends to export covered electronic wastes may submit documentation of approval of export by federal agencies that enforce or implement international law, such as the United States Environmental Protection Agency, the United States Department of State, United States Customs, or the United States Department of Commerce.
2. A person who intends to export covered electronic wastes may submit a certified statement, signed by the person who intends to export covered electronic wastes that describes the controls that will be in place to ensure that applicable international law is met.

D. Demonstration [PRC section 42476.5(d)]. A person who intends to export covered electronic wastes must demonstrate that the management of the exported covered electronic waste will be handled within the destination country in accordance with applicable rules, standards, and requirements adopted by the Organization for Economic Co-operation and Development Requirements (OECD Requirements). Compliance options include:

1. A person who intends to export covered electronic wastes may submit a certified statement signed by the person who intends to export covered electronic wastes that describes the controls that will be in place to ensure compliance with applicable OECD Requirements.

E. Demonstration [PRC section 42476.5(e)]. A person who intends to export must demonstrate that the covered electronic waste is being exported for the purpose of reuse or recycling. No demonstration is required for exports to OECD countries since OECD countries only allow importation of covered electronic waste for this purpose. For exports to non-OECD countries, compliance options include:

1. A person who intends to export covered electronic wastes may submit a copy of a signed contract that requires recycling/reuse of the covered electronic waste by the destination facility.

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2. A person who intends to export covered electronic wastes may submit a copy of a letter or inspection report from the authority that approves the import. The letter shall verify that recycling activities by the facility of import are in compliance with domestic laws.
3. A person who intends to export covered electronic wastes may submit copies of audits of receiving recovery facilities. Such audits should indicate how the materials are processed or reused and the final destination of any recycling/treatment residuals.
4. A person who intends to export covered electronic wastes may submit mass balances from the destination facility that show 1) recycling efficiencies, and 2) proper disposal of fractions not recycled. The mass balances should be based upon previous recycling by the destination facility for similar materials.
5. A person who intends to export covered electronic waste may submit a copy of the operating permits issued to the destination facility by the competent authority of the destination country.
6. A person who intends to export covered electronic wastes may submit any ISO 14001 Certificates relating to the proper management of covered electronic wastes at the destination facility.

IV. CONFIDENTIALITY REQUESTS

In accordance with title 22, California Code of Regulations, section 66260.2, any information submitted to the DTSC may be claimed as confidential by the submitter. Any such claim shall be asserted at the time of submission. If no claim is made at the time of submission, DTSC may make the information available to the public without further notice.

If any of the information provided to DTSC is believed to be a "trade secret" within the meaning of Health and Safety Code (HSC) section 25173, the trade secret item(s) must be clearly identified "Confidential: Trade Secret" in the submitted document. All unmarked items will be available for public release without notice to the facility owner and/or operator. If only parts of documents are confidential, the following must be submitted: two copies of the document, with one complete copy showing the confidential items (marked as described above) and the second copy (redacted copy) with the confidential items deleted. Eligible copies of documents submitted to DTSC that contain a trade secret item will be maintained in controlled files.

V. CONTACT DTSC

Notifications and demonstration documents should be mailed or forwarded to DTSC at the following address:

Department of Toxic Substances Control
P.O. Box 806, 11th Floor
Sacramento, California 95812-0806
Attention: Electronic Waste Export Notification

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For additional information regarding the export of applicable electronic wastes, please contact Ms. Valetti Lang at (916) 445-4413 (vlang@dtsc.ca.gov) or visit DTSC's website at dtsc.ca.gov.